

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 359 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-13-1.8 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]:
- 6 **Chapter 1.8. Public Hearings Concerning Public-Private**
- 7 **Agreements**
- 8 **Sec. 1. As used in this chapter, "authority" refers to the Indiana**
- 9 **finance authority.**
- 10 **Sec. 2. As used in this chapter, "department" refers to the**
- 11 **Indiana department of transportation.**
- 12 **Sec. 3. As used in this chapter, "operator" means a private**
- 13 **entity that has been selected by the authority or the department to**
- 14 **enter into a public-private agreement.**
- 15 **Sec. 4. As used in this chapter, "public-private agreement"**
- 16 **means:**
- 17 **(1) a BOT agreement entered into under IC 5-23;**
- 18 **(2) an operating agreement entered into under IC 5-23;**
- 19 **(3) a design-build contract entered into under IC 5-30; or**
- 20 **(4) an agreement under any other statute;**
- 21 **between a private entity and the authority, or between a private**
- 22 **entity and the department, that authorizes the private entity, acting**
- 23 **on behalf of the authority or the department, to operate all or part**
- 24 **of the Indiana toll road and to collect tolls for the use of the Indiana**
- 25 **toll road.**

1 **Sec. 5. Notwithstanding any other law, the authority or the**
 2 **department may not enter into a public-private agreement before**
 3 **the end of the forty-five (45) day period described in section 6 of**
 4 **this chapter.**

5 **Sec. 6. During the forty-five (45) day period following the latest**
 6 **of:**

7 (1) the effective date of the statute that authorizes the
 8 authority or the department to enter into the public-private
 9 agreement;

10 (2) the date on which the authority or the department selects
 11 a private entity to serve as an operator; or

12 (3) the date on which the governor designates a private entity
 13 to serve as an operator, if the statute authorizing the
 14 public-private agreement requires such a designation;

15 the authority or the department shall conduct public hearings in at
 16 least the municipalities listed in section 8 of this chapter.

17 **Sec. 7. The authority shall schedule a public hearing on the**
 18 **preliminary selection of an operator and publish notice of the**
 19 **hearing one (1) time in each county in which a public hearing will**
 20 **be held, in accordance with IC 5-3-1 and at least seven (7) days**
 21 **before each hearing. The notice must include the following:**

22 (1) The date, time, and place of the hearing in the county and
 23 the remaining public hearings to be held in other counties.

24 (2) The subject matter of the hearing.

25 (3) A description of the related toll road project and of the
 26 public-private agreement that has been negotiated by the
 27 proposed operator and the authority or the department.

28 (4) The identity of the offeror that has been selected or
 29 designated as the operator for the project.

30 (5) The address and telephone number of the authority or the
 31 department.

32 (6) A statement indicating that, except for those parts that are
 33 confidential under IC 5-14-3 or the statute authorizing the
 34 public-private agreement, the selected offer and an
 35 explanation of the basis upon which the preliminary selection
 36 was made are available for public inspection and copying at
 37 the principal office of the authority or the department during
 38 regular business hours.

39 **Sec. 8. Public hearings must be held under this chapter in at**
 40 **least the following municipalities, which the general assembly finds**
 41 **may be affected by a public-private agreement concerning the**
 42 **Indiana toll road or the use of money derived from such a**
 43 **public-private agreement:**

44 (1) South Bend.

45 (2) Gary.

46 (3) Merrillville.

1 (4) Fort Wayne.

2 (5) Washington.

3 (6) Bloomington.

4 (7) Evansville.

5 (8) Jeffersonville.

6 Sec. 10. (a) Except for those parts that are confidential under
7 IC 5-14-3 or the statute authorizing the public-private agreement,
8 the selected offer and a written explanation of the basis upon which
9 the preliminary selection was made shall be made available for
10 inspection and copying in accordance with IC 5-14-3 at least seven
11 (7) days before each hearing scheduled under this chapter.

12 Sec. 11. The authority or the department shall allow the public
13 to be heard on the proposed public-private agreement at each
14 hearing conducted under this chapter.

15 Sec. 12. At the beginning of each hearing conducted under this
16 chapter, a representative of the authority or the department must
17 make a presentation in a manner that is understandable by the
18 average individual that explains all the facts and information
19 related to the proposed public-private agreement and the options
20 the authority or the department has if there is a default in any of
21 the terms of the proposed public-private agreement.

22 Sec. 13. After the conclusion of all the hearings required by this
23 chapter, and before entering into the public-private agreement that
24 was the subject of the hearings, the authority or the department
25 shall review all testimony presented at the hearings in order to
26 determine whether the execution of the proposed public-private
27 agreement is in the best interests of the citizens of Indiana.

28 Sec. 14. If the authority or the department enters into a
29 public-private agreement without complying with this chapter, the
30 public-private agreement is void."

31 Page 10, after line 31, begin a new paragraph and insert:

32 "SECTION 18. **An emergency is declared for this act.**".

33 Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

Representative Oxley